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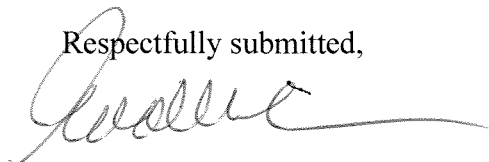
July 13, 2011

In re Merck & Co., Inc. Securities, Derivative & ERISA Litigation (MDL 1658)  
Nos. 05-CV-01151-SRC-MAS & 05-CV-02367-SRC-MAS  
The Consolidated Securities Action

Dear Judge Chesler:

We respectfully submit this letter on behalf of all Defendants<sup>1</sup> in response to Plaintiffs' letter to the Court, dated July 12, 2011. In their letter, Plaintiffs identify *Alaska Electrical Pension Fund v. Pharmacia Corp.*, 554 F.3d 342 (3d Cir. 2009), as the "case with facts analogous to those involved here regarding loss causation" that Mr. Brower intended to reference at oral argument. Although *Pharmacia* presented a "similar set of factual circumstances" to those here, 554 F.3d at 347, the Third Circuit did not address loss causation because it was not an issue in that case. Instead, *Pharmacia* involved a statute of limitations appeal nearly identical to the one in this case, which the Third Circuit had decided five months earlier. *Id.*; see also *In re Merck & Co., Inc. Sec., Derivative, & ERISA Litig.*, 543 F.3d 150 (3d Cir. 2008).

Respectfully submitted,



Evan R. Chesler

Honorable Stanley R. Chesler, U.S.D.J.  
United States District Court for the District of New Jersey  
Martin Luther King, Jr. Federal Building & U.S. Courthouse  
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VIA ECF

<sup>1</sup> Defendant Dr. Edward M. Scolnick, who is separately represented, joins in this letter.

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